CHRONO

OLL 85-3322
29 October 1985

MEMORANDUM FOR THE RECORD:

SUBJECT: Legislation to control the export of capital from the U.S. to Soviet bloc countries (S.812): Information sought by DCI in preparation for White House Meeting

1. Dean Hoffman (NIO/ECON/NIC) called to find the purpose and status of S. 812. This bill would authorize the President to impose controls on the export of capital to Soviet bloc countries. Senator Garn, Chairman of the Banking Committee, introduced the bill on March 28, 1985, together with Senator Proxmire, the ranking minority member. Export controls come within the jurisdiction of the Banking Committee.

2. According to Banking Committee staff, the bill was introduced to send a signal to American bankers to stop lending to Soviet bloc countries. Strong evidence shows that these loans supply scarce Western currency which bloc countries use for the surreptitious acquisition of U.S. technology. Both Garn and Proxmire believed that mere introduction of the bill would discourage bankers from making such loans and no further action would be needed.

3. Ignoring this mild warning, U.S. bankers continued to lend to bloc countries. Since the introduction of the bill, $600 million in credits have been given to East Germany and $200 million to the Soviet Union. In view of U.S. bankers intransigence, the Senate Banking Committee intends to move the bill. A hearing is scheduled for November 7, with a mark up to follow shortly thereafter. Congressman Dornan has introduced companion legislation in the House (H.R. 3535).

4. Attached is a copy of the Congressional Record entry on the bill. All of the foregoing was given to Mr. Hoffman.

STAT

Deputy Chief, Legislation Division
Office of Legislative Liaison

Attachment
as stated

Sanitized Copy Approved for Release 2010/04/20 : CIA-RDP87M01152R001101380015-7

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STAT LEG/OLL:[redacted] (29 Oct 1985)

ed little guidance and support. The issue of state sanctioned exemptions for church sponsored child care was not adequately addressed. Most states recognize the importance of including churches in licensing standards. However, the Model Child Care Standards Act suggests that states are moving toward the allowance of exemptions.

Currently, only eight states exempt church sponsored child care from existing licensing requirements. We fear the treatment of this issue in the document will appear to lend the Department's name and support to a growing political movement to exempt large numbers of child care providers from the responsibility to meet standards.

In the survey of church based child care, reported in When Churches Mind the Children, by Reverend Eileen Lindner, et. al., it was found that only 16 percent of the fifteen thousand programs identified were unlicensed. The statement of the National Council of Churches, developed in part by many of the survey respondents, supports the regulation of church based child care to ensure the health and safety of young children.

Another issue in which States are now looking to the federal government for specific assistance and direction is in implementing state-mandated background checks of employees working with children in child care and juvenile facilities. This concern is critical for all states interested in receiving the one year increase in training monies through the Title XX program as specified in P.L. 98-473: additionally some state legislatures have enacted permanent procedures requiring child care providers to participate in background or criminal record checks as a condition of employment. Currently states are floundering with little direction concerning ways to manage and monitor such procedures.

While the Model Child Care Standards Act raises the pertinent issues related to implementing state-wide background checks, it falls short of providing specific guidance and direction as to a "model" which can be replicated. Specifically the Standards do not provide: operational definitions of terms used in the statute, precise roles and responsibilities of the FBI and other law enforcement agencies, or a model for managing the financial costs associated with such an initiative. States are not given any instructions or direction regarding compliance issues and effective program monitoring.

In conclusion, we feel strongly that if the government is to assume a "guardianship role" concerning the fundamental protections essential to the healthy development of young children, the Department must provide the support, and direction to the states which can facilitate informed policy formulation at the state and local levels. As a follow-up to the release of the Model Child Care Standards, the Coalition would recommend the following next steps:

Followup to see if States have implemented procedures for conducting criminal background checks; identify barriers to implementation.

Followup to see if States have, in response to the Model Child Care Standards Act made efforts to upgrade existing child care regulations or licensing standards.

Provide technical assistance to states to improve current practices.

Support legislation that provides incentive grants to states for the purpose of upgrading existing child care standards.

We appreciate your consideration of this letter and would welcome the opportunity to meet with you to discuss how we might work together to enhance the quality of child care available to families.

Sincerely,

EVELYN K. MOORE,
Executive Director, NBCDI.

For: Association of Junior Leagues;
Children's Defense Fund;
Children's Foundation;
Child Welfare League of America;
Department of Human Welfare, General Board of Church and Society of the United Methodist Church;
Friends Committee on National Legislation;
National Association for the Education of Young Children;
National Association of Counties;
National Association of Social Workers;
National Black Child Development Institute;
National Board of the YWCA of the U.S.A.;
National Center for Clinical Infant Programs;
National Organization for Women;
National Women's Political Caucus;
Project on Equal Education Rights;
The Parent Connection;
Wider Opportunities for Women; and
Women's Equity Action League.●

By Mr. GARN (for himself and Mr. HATCH):

S. 811. A bill to clarify the treatment of mineral materials on public lands; to the Committee on Energy and Natural Resources.

TREATMENT OF MINERALS ON PUBLIC LANDS

● Mr. GARN. Mr. President, today I am introducing the identical sand and gravel bill that passed the Senate by voice vote last August 9, 1984. The measure died because time ran out before action on it could be taken in the House of Representatives.

The purpose of the legislation is to clarify the treatment of sand and gravel deposits on the public lands. Under current interpretations of the mining laws, the Department of Interior has ruled that it is illegal to sell or otherwise dispose of sand and gravel on BLM lands. The Department of Agriculture on the other hand, interprets the exact same statutes so as to allow the sale or disposition of sand and gravel on Forest Service lands.

This legislation clarifies that sand and gravel can indeed be legally and lawfully sold or removed from Federal lands. The bill also protects the rights of mining claimants and resolves a longstanding problem in the counties of southeastern Utah.●

By Mr. GARN (for himself and Mr. PROXMIRE):

S. 812. A bill to amend the Export Administration Act of 1979 to authorize controls of the export of capital from the United States; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL EXPORT CONTROL ACT

● Mr. GARN. Mr. President, today I am introducing the Financial Export Control Act, a bill authorizing the President to control the transfer of money and other financial resources from the United States to countries against which we maintain national security export controls.

For the past 3 years the Congress has been reviewing the Export Administration Act in an effort to improve our ability to prevent the transfer of sensitive goods and technology to our adversaries. The Defense Department recently commissioned a private study of the impact of technology transfer on our defense spending. That study, which will soon be released, confirms what we have long feared, that technology transfer to the Soviet bloc costs us tens of billions of dollars annually in increased defense costs.

Mr. President, although a bargain in comparison with our development costs, the Soviets have to pay for the technology they obtain. It is unfortunate but true that the Soviets are successful in gathering Western technology with the help of people living in the Western democracies. But that help has to be bought. In fact, the Western high technology smuggler demands a premium price for everything he delivers, and he will not take payment in rubles. This means, Mr. President, that the Soviet ability to obtain the sensitive goods and technology from the West that are turned against us in Soviet weapon systems is directly related to their ability to obtain hard currency, Western currencies.

There are only a few ways that the Soviets can obtain hard currency. They can export to the West, but the quality of Soviet products is so low that export sales have been limited to exports of raw materials, such as gold and natural gas, and to arms exports.

The other way that the Soviets have in the past obtained what is for them very scarce Western currency is through loans from Western banks. This source largely dried up, however, over the inability of Poland and several other Soviet allies to pay their debts and the furor caused by the realization that Western banks were so deeply involved in lending to the Soviet bloc at the same time that these countries were brutally repressing their own citizens.

Lately, however, Western European banks have resumed their lending to the Soviet bloc. The level of lending reached $3 billion last year, a threefold increase over 1983. The only bright spot in this gloomy picture was the fact that U.S. banks were staying out. Now that, too, is ending. American banks are now falling over each other to get back into lending to the Warsaw Pact, and at terms far more favorable than what the Western Europeans were offering. Last year, while West German banks were making largely short-term loans to East Germany at rates 3 or 4 percentage points over the London Interbank offered rate [LIBOR], First Chicago Bank gave the East Germans a $75 million loan at only 1 point above LIBOR. The Western Europeans have since begun matching those terms.

Not to be outdone, however, New York's Citibank is currently syndicating a loan to East Germany in the amount of $500 million, at seven-eighths of a point above LIBOR or one-half point above the U.S. prime rate. This loan started out at a mere $150 million, but there was such enthusiasm for it from U.S. banks that the East Germans were persuaded to increase the amount. Moreover, this loan is for 7 years, with a built-in 3-year grace period.

Mr. President, the prime rate is currently at 10.5 percent, so the Citibank loan to East Germany, in today's terms, would be for a rate of 11 percent. I wonder whether any of my colleagues have any constituents that would like to borrow money at 11 percent. Do they have anyone who would like to buy a home at 11 percent, or obtain credit for farm improvements at 11 percent? Perhaps they have some constituent that would like to start or expand a business with an 11-percent loan, or make an export sale. They very well may have such people, but they are unlikely to find those kinds of loans being offered. Apparently, a family trying to buy a home, a farmer, a businessman in the United States cannot easily get such a rate, but the East Germans can.

What are the East Germans going to do with such a loan? Are they going to expand human freedoms, increase individual opportunity? No. Instead, the East Germans are going to use the money to buy Western high technology. They are concerned by the fact that their Communist economy is falling farther and farther behind the economy of West Germany—and it is worth adding that the East Germans came to Citibank because the West German banks were requiring human rights concessions for the granting of their loans.

The East Germans are also eager for Western technology because their Soviet masters are demanding more high technology imports from the East Germans in exchange for Soviet energy supplies. That is to say, although the loan is going to the East Germans, its benefits are going to the Soviets.

Mr. President, I am not sure how we can best deal with this problem, but I do know that we are making our export control task all the more difficult by lending our adversaries the money with which to obtain our technology. This is a practice that must stop. Our banks may make some profits from the loans, although their troubled East European loan portfolio casts some doubt on that. But whatever profit they may obtain is far short of the expense that it causes us to make up for Soviet bloc military advances made possible by Western technology. What would interest rates be for our people if we could safely decrease defense spending by tens of billions of dollars annually? We cannot make such cuts, however, as long as we are contributing so directly to Soviet bloc military advances.

I am offering this bill today for consideration by my colleagues in hopes that it will lead to an end to the practice of lending to our adversaries. This bill authorizes, but does not direct, the President to control transfers of capital to countries against which we maintain national security export controls, the Soviet bloc countries. The President would be given full discretionary authority so as to apply such controls in the manner most in keeping with our national interests.

The bill in its current form is a discussion draft. My colleagues may have some other ideas, and some changes may need to be made. Perhaps the problem can be solved without legislation, but I believe that the time has arrived to address this situation directly.

Mr. President, I would also like to mention to my colleagues that I do not intend to add this bill to current proposals to amend the Export Administration Act that are being considered here and in the House of Representatives in connection with the reauthorization of the Export Administration Act. This is a separate item of legislation.

Mr. President, I ask that the text of an article from the March 19, 1985, edition of the Wall Street Journal that details the recent Citibank loan, along with the text of the bill and a section-by-section analysis of the bill, be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 19, 1985]

EAST GERMANS BENEFIT FROM U.S. BANK CREDITS THAT DON'T CALL FOR HUMAN-RIGHTS CONCESSIONS

(By Frederick Kempe)

EAST BERLIN.—American bankers' eager resumption of credits to East Germany is helping the country avoid human-rights concessions in its financial relationship with West Germany.

East Germany avoided a Polish-like financial crisis in 1982 and 1983 through two separate credits negotiated and guaranteed by Bonn and extended by West Germany banks. In return, East Germany ceased restrictions on West Germany visits to the East, and it also last year allowed 40,000 East Germans to emigrate to West Germany.

Western experts now believe that East Germany yielded the short-term human-rights concessions to pursue significant longer-term aims that would spare it from such a vulnerable political position again. It combined the West German credits with a strict austerity program and dramatic import reductions to considerably improve its economic performance and its image among international creditors, who now are competing to give the country money.

CHANGE OF COURSE

Bank of America, Manufacturers Hanover and Citicorp, who were refusing East Germany new credits a little more than a year ago, are managing with the bank of Tokyo a $150 million credit that has grown to $500 million largely due to U.S. banks' demand. The loan hasn't any political strings attached, and its terms are the best East Germany has seen since the Polish repayment crisis—⅞ percentage point over the London Interbank Offered Rate (Libor) or an option for ½ percentage point over the U.S. prime rate. It is to be repaid over seven years with a three year grace.

"It's all a political business," says Wolfgang Seiffert, economic adviser to the East German government until 1978, and now a professor in Kiel, West Germany. "The attempt of East Germany to get money from American and other banks is an effort to get western finances without liberalization measures. The money will give East Berlin a stronger hand for its political games with West Germany because it doesn't need Bonn's money as much anymore."

West German bankers also complain that the Americans have been driving prices down in their effort to get back into the East German lending market that they abandoned in 1981, when Poland cast a shadow over all of Eastern Europe.

Until last year, West German banks were extending the East Germans primarily commercial loans, usually to be repaid after one year at a rate three to four percentage points above Libor. However, East Germany extracted far better conditions from First National Bank of Chicago when it worked its way back into the market last year. First Chicago offered a $75 million club loan at only one percentage point above Libor, a rate that European banks thereafter were forced to match despite a feeling by many lending officers that the margin wasn't sufficient.

THE GROWING GAP

U.S. banks are injecting money into the East German economy at a critical time. East Germany considerably reduced imports over the past three years to achieve hard currency trade surpluses and to service debts, but it also dangerously reduced investment. The result was that the technology gap between it and its West European neighbors grew.

Western economists expect the next East German five-year plan, from 1986-1990, to include an ambitious investment program, particularly emphasizing purchases of Western technology.

This is partially a response to a Soviet ultimatum that Moscow is to get Western-quality goods in exchange for the raw materials it provides Eastern Europe, or Moscow will reduce the amounts provided. The Soviets warn that Soviet oil can simply be sold on Western markets and the proceeds used to buy more advanced Western products.

"The East Germans are the largest East European technology sluice and supplier for the Soviets," says Klaus Schroeder of the West German government-sponsored Institute for Science and Policy near Munich. "Soviet demands have put a large amount of pressure on the East Germans to modernize their industry."

GOOD PERFORMANCE

U.S. bankers argue that they have good reason to be wooing the East Germans. First, they say East Germany's economic performance is the best in Eastern Europe. Produced national income (basically, gross national product minus invoices) in 1984 rose by 5.5%, compared to 4.4% the year before. Net industrial production rose 8.5% against 4.6% in 1983. Industrial labor productivity increased 7.7% against 5.8% in 1983.

The bankers also cite a radical improvement in East Germany's external position. While East Germany's debt to Western banks of $10 billion once was worrying to the banks, they now place more emphasis on East Germany's buildup of deposits in Western banks to some $4.5 billion.

Some also argue that a double umbrella exists over East Germany. They say the Soviets wouldn't allow their most important economic ally to enter into repayment difficulties and hence would bail the East Germans out. The bankers are even more confident about a West German umbrella, following Bonn's financial intercession during East Germany's recent problems.

"The proof is in the pudding," one U.S. banker says. "East Germany is a solid bet. We have been aggressively adding to our exposure."

However, many Western experts believe the banks are making the sorts of errors they did when more than 400 lending institutions scrambled in the 1970s to do Polish business. They are competing to give East Germany even more cash than it is asking for, yet East German economic reporting remains imprecise. The bankers haven't any specific idea what East Germany intends to do with all the money, nor whether it can eventually earn the hard currency to repay the loans.

"Bankers learn very slowly and forget very quickly," says Mr. Schroeder, a former bank economist.

Says Mr. Seiffert, "The economic situation in East Germany has improved, and so no one should have great worries about giving the country credits, but the U.S. banks currently aren't being prudent enough and should only extend credits when linking them to specific projects or investment plans."

SECTION-BY-SECTION ANALYSIS OF THE FINANCIAL EXPORT CONTROL ACT

Section 1 gives the title of the legislation as the Financial Export Control Act.

Section 2 adds to the Export Administration Act of 1979 (EAA) a finding that loans and transfers of capital to the Soviet Bloc add to their ability to acquire sensitive goods and technology.

Section 3 adds to the EAA a statement of policy to restrict transfers of capital to controlled countries in order to further national security export control policies.

Section 4 adds to the EAA a new section 8A, authorizing the President, through the Secretary of the Treasury, to control transfers of capital to controlled countries, and directing the Secretary of the Treasury to conduct negotiations with other countries to obtain cooperation on any such controls imposed.

Section 5 is a conforming amendment, designating the Treasury Secretary as responsible for issuing licenses that may be required for capital transfers to controlled countries.

Section 6 authorizes the Secretary of the Treasury to enforce the controls on transfers of capital to controlled countries.

Section 7 is a conforming amendment to the reporting provisions of the EAA, requiring the Treasury Secretary to issue a report on capital controls, as part of the annual report on export controls submitted to the Congress by the Commerce Secretary.

Section 8 gives the Treasury Secretary the authority to issue regulations.

Section 9 contains definitions.

S. 812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Financial Export Control Act".

SEC. 2. Section 2 of the Export Administration Act of 1979 is amended by adding at the end thereof the following:

"(10) Loans and other transfers of capital to the Soviet Union and its allies from public and commercial sources significantly increase the ability of those countries to obtain sensitive goods and technology, thereby damaging the security interests of the United States and its allies.".

SEC. 3. Section 3 of the Export Administration Act of 1979 is amended—

(1) in paragraph (2)(B), by striking out "and" after the semicolon;

(2) in paragraph (2)(C), by striking out the period and inserting in lieu thereof "; and "; and

(3) by adding at the end of paragraph (2) the following:

"(D) to restrict the export of capital, the extension of credit, the making of loans, or the transfer of financial resources to destinations to which exports are restricted in order to carry out the policy described in subparagraph (A) of this paragraph.".

SEC. 4. The Export Administration Act of 1979 is amended by inserting after section 8 the following new section:

"CAPITAL CONTROLS

"SEC. 8A. (a) AUTHORITY.—In order to carry out the policy set forth in section 3(2)(D) of this Act, the President may prohibit, curtail, monitor, or otherwise regulate the export or transfer, or participation in the export or transfer, of money or other financial assets, including the making of a loan or the extension of credit, to the government of any controlled country, or to any political subdivision thereof or any organization or association owned by or acting for or on behalf of such government or political subdivision thereof. The authority contained in this subsection shall be exercised by the Secretary of the Treasury, in consultation with the Secretary of Defense, the Secretary of Commerce, and such other departments and agencies as the Secretary of the Treasury shall consider appropriate.

"(b) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of the Treasury, in consultation with the Secretaries of State, Defense, and Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation with controls imposed pursuant to subsection (a).".

SEC. 5. Section 10 of the Export Administration Act of 1979 is amended—

(1) in subsection (a)(1), by striking out "All export license applications" and inserting in lieu thereof "Except as provided in subsection (k), all export license applications";

(2) in subsection (j)(1), by inserting before the period ", except in the case of any license that may be required pursuant to section 8A of this Act, in which case the Secretary of the Treasury shall establish such procedures"; and

(3) by adding at the end thereof the following new subsection:

"(k)(1) Any export license applications required pursuant to section 8A of this Act shall be submitted by the applicant to the Secretary of the Treasury. All determinations with respect to any such application shall be made by the Secretary of the Treasury.

"(2) To the extent necessary, the Secretary of the Treasury shall seek information and recommendations from the Government departments and agencies concerned with aspects of the United States domestic and foreign policies and operations having an important bearing on the policy set forth in section 3(2)(D) of this Act.".

SEC. 6. Section 12 of the Export Administration Act of 1979 is amended—

(1) in the second sentence of subsection (c)(1), by inserting before the period the following ", or in the case of information obtained with respect to section 8A of this Act, unless the Secretary of the Treasury so determines"; and

(2) in subsection (e), by striking out "The Secretary" and inserting in lieu thereof "Except with regard to the authority provided under section 8A(a), the Secretary".

SEC. 7. Section 14(a) of the Export Administration Act of 1979 is amended—

(1) by striking out "and" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(21) actions taken by the President and the Secretary of the Treasury to carry out the policies set forth in section 3(2)(D) of this Act, as described by the Secretary of the Treasury in a report submitted for inclusion as a part of the Secretary's annual report required by this section.".

SEC. 8. Section 15 of the Export Administration Act of 1979 is amended by inserting "and the Secretary of the Treasury" after "Secretary".

SEC. 9. Section 16 of the Export Administration Act of 1979 is amended—

(1) in paragraph (4) by striking out "and" after the semicolon;

(2) in paragraph (5) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(6) the term 'extension of credit' includes loans, credit sales, the supplying of funds through the underwriting, distribution, or acquisition of securities, the making or assisting in the making of a direct placement, or otherwise participating in the offering, distribution, or acquisition of securities; and

"(7) the term 'loan' includes any type of credit, including credit extended in connection with a credit sale.".●

By Mr. PACKWOOD (for himself and Mr. FORD):

S. 813. A bill to amend the National Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1986 and 1987, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AUTHORIZATION OF APPROPRIATIONS UNDER THE NATURAL GAS PIPELINE SAFETY ACT AND HAZARDOUS LIQUID PIPELINE SAFETY ACT

● Mr. PACKWOOD. Mr. President, this morning the Senate Commerce Committee's Subcommittee on Surface Transportation, which I chair, held a hearing:

First, to examine the effectiveness of the pipeline safety efforts of the Department of Transportation [DOT] and the States that help enforce the Federal pipeline safety regulations; and

Second, to consider appropriate Federal funding levels for fiscal 1986 and 1987 to support these efforts.

Under the Natural Gas Pipeline Safety Act of 1968 [NGPSA] and the Hazardous Liquid Pipeline Safety Act of 1979 [HLPSA], DOT is responsible for:

First, developing and enforcing regulations for the safe transportation by interstate and instrastate pipelines of